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**MCDERMOTT, WILL & EMERY****F A C S I M I L E****FROM:**

Attorney: Daniel Bucca, Ph.D.  
E-mail: dbucca@mwe.com  
Secretary: \_\_\_\_\_  
Client/Matter/Tkpr: 61404 / 018 / 4301

Direct Phone: 202-756-8612

Direct Phone: \_\_\_\_\_

Date: 7 September 2004 Time Sent: \_\_\_\_\_Number of pages including this page: 8**TO:**

Name: Examiner Doshie Day  
Company: U.S. Patent & Trademark Office

Facsimile No. 703 305 9822

Contact No. \_\_\_\_\_

**Re: U.S. Patent Application Serial No. 10/665,728**  
**For: COMPOSITION CONTAINING RIBAVIRIN AND USE**  
**THEREOF**

**Inventor: KERRISH et al.****Filed: September 22, 2003***OK to run***CERTIFICATE OF FACSIMILE TRANSMISSION**

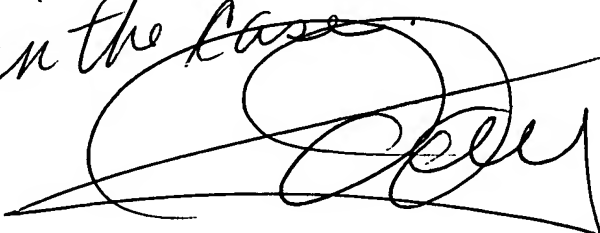
I hereby certify that this document (including any paper referred to as being attached or enclosed)  
is being sent to the U.S. Patent and Trademark Office via facsimile transmission on the date indicated below

By: \_\_\_\_\_

Daniel Bucca, Registration No. 42,368

Date 9/7/2004

*Put the 60/411,747  
in the case*



The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this facsimile is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the original message to us at the above address via the United States Postal Service. Thank you.

Docket No.: 61404-018

**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of : Customer Number: 20277  
Donald J. KERRISH, et al. : Confirmation Number: 4677  
Serial No.: 10/665,728 : Group Art Unit: 1623  
Filed: September 22, 2003 : Examiner: Unknown  
For: COMPOSITION CONTAINING RIBAVIRIN AND USE THEREOF

**SECOND REQUEST FOR CORRECTED FILING RECEIPT**

Mail Stop OFR  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

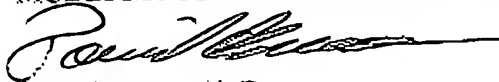
Sir:

Attached is a copy of the Response to Applicant's earlier request for a corrected filing receipt and a requested correction to the current Filing Receipt in the above-referenced application.

Applicant hereby requests that the filing receipt be corrected to show the benefit of priority to an earlier filed provisional application. Applicant filed its claim for priority to Provisional Application Number 60/411,747 with the filing of the present application. Applicant, however, incorrectly listed the date of the provisional filing as March 19, 2002. The Provisional Application was filed on September 19, 2002. A copy of the filing receipt of the Provisional Application evidencing its filing date is attached hereto. Accordingly, the present application is entitled to its claim of priority pursuant to 35 U.S.C. § 119(e) and MPEP § 201.11. It is requested that a corrected filing receipt be issued.

Respectfully submitted,

MCDERMOTT WILL &amp; EMERY LLP



Daniel Bucca, Ph.D.  
Registration No. 42,368

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Date: 7 September 2004



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/665,728	09/22/2003	1623	579	61404-018	3	20	6

CONFIRMATION NO. 4677

MCDERMOTT, WILL & EMERY  
 600 13th Street, N.W.  
 Washington, DC 20005-3096

UPDATED FILING RECEIPT



\*OC000000013042895\*

Date Mailed: 06/24/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Donald J. Kerrish, Wexford, PA;  
 John R. Bergeron, Middletown, MD;  
 Larry L. Augsburger, Severna Park, MD;

**RECEIVED**

JUN 28 2004

Domestic Priority data as claimed by applicant

*U.S. Provisional 60/411,747 filed  
 09/19/2002*

Foreign Applications

MCDERMOTT, WILL &amp; EMERY

If Required, Foreign Filing License Granted: 12/15/2003

Projected Publication Date: 03/24/2005

Non-Publication Request: No

Early Publication Request: No

\*\* SMALL ENTITY \*\*

Title

Composition containing ribavirin and use thereof

Preliminary Class

424

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**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



## UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/665,728	09/22/2003	Donald J. Kerrish	61404-018

MCDERMOTT, WILL & EMERY  
 600 13th Street, N.W.  
 Washington, DC 20005-3096

CONFIRMATION NO. 4677



\*OC000000013042922\*

Date Mailed: 06/24/2004

## RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT

**RECEIVED**

## Domestic Continuity and Foreign Priority

JUN 28 2004

MCDERMOTT, WILL &amp; EMERY

In response to your request for a corrected Filing Receipt, the Office is unable to comply with the request because:

- ☐ The priority or continuity claim has not been entered because it was not filed during the required time period. Applicant may wish to consider filing a petition to accept an unintentionally delayed claim for priority. See 37 CFR 1.55 or 1.78.
- ☐ Continuity claimed under 35 U.S.C. § 120 cannot be added to the Filing Receipt without the applicant supplying the relationship (continuation, divisional, or continuation-in-part) in an Application Data Sheet or amendment to the first page of the specification.
- ☒ A claim for priority cannot be made based on an application filed after the application making the claim.
- ☐ Domestic benefit and foreign priority claims will not be captured in a provisional application. A provisional application is not entitled to a right of priority or to the benefit of an earlier filing date of any other application. See 35 U.S.C. § 111(b)(7) and 37 CFR 1.53(c)(4).
- ☐ A domestic continuity claim cannot be made to a foreign application and the filing receipt will only list the foreign country, application number, and filing date.
- ☐ Foreign priority will appear on the Filing Receipt in the following order: **Country, Application number, Filing date.**
- ☐ This application is the result of a conversion from a provisional application. Priority based on such application cannot be made since it no longer exists as a provisional application.
- ☐ The application(s) to which priority is claimed were filed over a year prior to the filing date of this application. Therefore, the referenced application(s) cannot be claimed as domestic or foreign priority.

- ☐ To change the benefit claim of a U.S. prior-filed application, applicant must amend the first sentence of the specification (if the benefit claim is referenced in the specification), or provide a supplemental application data sheet (ADS) (if the benefit claim was submitted in an ADS), with the desired benefit claim. Note that once a benefit claim is deleted, applicant will not be able to claim such prior-filed application again, if the above-identified application was filed on or after November 29, 2000.
- ☐ To change a foreign priority claim, applicant must submit a supplemental oath or declaration (if the priority claim is referenced in the oath or declaration), or a supplemental application data sheet (ADS) (if the priority claim was submitted in an ADS), with the desired priority claim. If a supplemental ADS is submitted, any deletions should be shown with strikeouts. Note that once a priority claim is deleted, applicant will not be able to claim such foreign application again, if the above-identified application was filed on or after November 29, 2000.

  
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY



APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
60/411,747	09/19/2002		80	61404-015	3		

McDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington, DC 20005-3096

RECEIVED

OCT 11 2002

McDERMOTT, WILL & EMERY

CONFIRMATION NO. 9167

FILING RECEIPT



"OC00000008910200"

Date Mailed: 10/07/2002

Receipt is acknowledged of this provisional Patent Application. It will not be examined for patentability and will become abandoned not later than twelve months after its filing date. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

**Applicant(s)**

Donald Kerrish, Cranberry Township, PA;

If Required, Foreign Filing License Granted 10/04/2002

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

\*\* SMALL ENTITY \*\*

**Title**

Sustained release composition containing ribavirin

**LICENSE FOR FOREIGN FILING UNDER**  
**Title 35, United States Code, Section 184**  
**Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

**United States Patent and Trademark Office OG Notices: 21 October 2003**

Closing of the United States Patent and Trademark Office on  
Thursday, September 18, 2003, and Friday, September 19, 2003

In view of the official closing of the Federal Government offices in the Washington, D.C. metropolitan area, including the United States Patent and Trademark Office (USPTO), on Thursday, September 18, 2003, and Friday, September 19, 2003, the United States Patent and Trademark Office will consider Thursday, September 18, 2003, and Friday, September 19, 2003, a "Federal holiday within the District of Columbia" under 35 U.S.C. 21 and 37 C.F.R. 1.6, 1.7, 1.9, 2.2(d), 2.195, and 2.196. Any action or fee due on Thursday, September 18, 2003, or Friday, September 19, 2003, will be considered as timely for the purposes of, e.g., 35 U.S.C. 119, 120, 133 and 151, if the action is taken, or the fee is paid, on the next succeeding business day on which the USPTO was open, that is, Monday, September 22, 2003.

37 C.F.R. 1.6(a)(2) and 2.195(a)(4) provide that correspondence deposited as Express Mail in accordance with 37 C.F.R. 1.10 or 2.198 will be considered as filed on the date of deposit with the United States Postal Service (USPS). Thus, any paper or fee properly deposited in accordance with 37 C.F.R. 1.10 or 2.198 with the Express Mail service of the USPS on Thursday, September 18, 2003, or Friday, September 19, 2003 (that is, as shown by a "date-in" of Thursday, September 18, 2003, or Friday, September 19, 2003, on the Express Mail mailing label) will be considered filed in the USPTO on its date of deposit in the Express Mail service of the USPS. 37 C.F.R. 2.195(a)(2) provides that trademark-related correspondence transmitted electronically to the USPTO will be considered filed in the USPTO on the date the USPTO receives the electronic transmission. Thus, trademark-related correspondence transmitted electronically on Thursday, September 18, 2003, and/or Friday, September 19, 2003, will be considered filed in the USPTO on the date the USPTO received the electronic transmission. Correspondence successfully received by the USPTO through the patent Electronic Filing System will receive the date as indicated on the Acknowledgment Receipt.

September 23, 2003

JAMES E. ROGAN  
Under Secretary of Commerce for  
Intellectual Property and  
Director of the United States Patent and  
Trademark Office